IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 4TH OCTOBER 2006 / 12TH ASWINA 1928

OP.No. 34782 of 2000(N)

PETITIONER:

P.A.ABRAHAM, HAILMARY TIMBERS,
POOVANTHURUTHU P.O., INDUSTRIAL
AREA, KOTTAYAM DIST.

BY ADV. SRI.JOHN VARGHESE

RESPONDENTS:

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1. K.P.SURESH, PUTHUPARAMBIL HOUSE,
SACHIVOTHAMAPURAM, KURICHY,
KOTTAYAM DIST.

2. MATHEW KURIAN, POTTANKULAM HOUSE,
MUTTAMBALAM P.O., KOTTAYAM DIST.

3. DEPUTY LABOUR COMMISSIONER,
KOTTAYAM.

4. DEPUTY TAHSILDAR(RR),
KOTTAYAM.

R1 BY ADV. SRI.JACOB GEORGE (PATHAZHAKKUZHIKAL)
SRI.JOSEPH A.VADAKKEL
SRI.GEORGE KARITHANAM VARGHESE
SRI.V.J.JOHN
R2 BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 04/10/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.59522/2000 IN O.P. NO.34782/2000

DISMISSED:

4.10.2006 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE ORDER DT.28.5.99 ISSUED BY R3 IN WCC 34/96.

P2: TRUE COPY OF THE AWARD DT.28.5.99 IN WCC.34/96 PASSED BY R3.

P3: TRUE COPY OF AFFIDAVIT DT.23.7.99 FILED BY PETITIONER BEFORE R3.

P3(a): TRUE COPY OF THE PETITION DT.23.7.99 FILED BY PETITIONER BEFORE R3.

P4: TRUE COPY OF NOTICE DT.12.6.2000 ISSUED BY R3 TO THE PETITIONER.

P5: TRUE COPY OF JUDGMENT DT.4.7.2000 IN O.P. NO.18532/2000 OF THIS HON'BLE COURT.

P6: TRUE COPY OF THE NOTICE DT.21.11.2000 ISSUED BY R4 TO THE PETITIONER.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.34782 of 2000

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Dated this the 4th day of October, 2006.

JUDGMENT

The petitioner is challenging recovery proceedings for recovery of Workmen's Compensation award passed in favour of the first respondent. Since nobody is appearing for the first respondent, it is not known as to whether he got any benefit in the matter. Petitioner's case is that there was an application for setting aside exparte award and this court vide Ext.P5 judgment directed disposal of application to set aside exparte award and until then stay was granted. In the report the Deputy Labour Commissioner, Kottayam reported that even prior to filing of the O.P., the application for setting aside exparte award was rejected by that authority. In any case it is reported that in view of the interim orders of this court, the Deputy Labour Commissioner is prepared to reconsider the matter. However, from the facts it is clear that the petitioner was deliberately dodging payment as he took no steps pursuant to Ext.P5 judgment until recovery notice was again issued. In the circumstances, this O.P. is disposed of directing the petitioner to deposit rupees five thousand with the Tahsildar and produce the receipt before the third respondent within two weeks from date of receipt of copy of this judgment. If the amount is deposited, the third respondent will hear all the parties and dispose of the application in terms of Ext.P5 judgment within one month thereafter. Recovery thereafter will be limited to actual amount sustained

by the third respondent. If petitioner does not make payment as above or co-operate with the hearing, the Tahsildar will proceed for recovery of entire amount due as of now from the petitioner.

C.N.RAMACHANDRAN NAIR
Judge

pms